1945

File No. B. Munis. Bom. City/45
Legal Department. (Second Amdt.)

K

B **BRANCH**

Subject:— (Governor's Bill No. XI of 1945)

A Bill to amend the City of Bombay Municipal Act. 1888

(amendment of section 361).

(Bom. Act No IX of 1945)

6/1945

File No. B. Munis Bom. City/45
(Second Amdt.)

Gen. 194 e.

Office of the R.L.A.

Drafts of the Bill and Statement are appended.

2. The subject-matter of the Bill falls under entry 13 in List II in the Seventh Schedule to the Government of India Act, 1935. Since the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935. Under executive instructions the Bill requires the previsous concurrence of the Governor General.

o/c Sd/- R.S.H.

for Remembrancer of Legal Affairs.

U.R. to G.D. No. 20-Confl. date the 19th Janurary 1945.

C.G.R. 17-7

C 5

Office of the R.L.A.

R.L.A. considered the Municipal Commissioner's suggestions. The amendmentof sectton 361 proposed by the Municipal Commissioner isnot suitable since somethingmore than the power of mere entry is required for the purposes of effective fire-fighting. It is true that ships are not pulled down in the course of fire-fighting. But so many of the terms in section 361 as are applicable to ships will apply to ships. "Premises" is defned in section 3(gg) of the principal Act as including lands of any tenure. Lands cannot be pulled down but it would be pedantic to make separate provision for fire-fighting on lands. So many of the terms in section 361 as are applicable to lands will apply. Similarly ships.

The amendment does make and is presumably intended to make, inroads, upon the authority of Masters of ships. There is the possibility of a clash between the Chief of the Fire Brigade and the Master of the ~~xip~~ ship, but it will have to be left to the good sense of both to settle or else be settled by a higher authority. The omission of the "take possession of" is not going to make clearer to anyone the relative authority of the Chief and the Master or make less likely the chance of a clash. If the explosions in April are a guide, the need seems to be to make the Fire Brigade sure of its authority and the sue of separate and less liberal terms in section 361 in respect of ships may create an unfortunate doubt.

o/c Sd/-P.N.M. 3141-45

Remembrancer of Legal Affairs.

U.R. to G.D., No. 43-Conlf. dt. 31st January '45.

C .G.R. 17-7

C 5

No. 2985 11
Legal Department.
Bombay Castle, 17th April 1945.

From
P.N.Mooc, Esquire, Bar-at.Law, I-C.S.,
Secretary to the Governmentof Bombay.

To
The Secretary to the Governor of Bombay.

Subject:- The City of Bombay Municipal (Second Amendment) Bill,1945.

Sir,

With reference to your memorandum No. 201(118), dated the 14th March 1945, addressed to the General Department on the above subject, I am directed to forward herewith forthe assent of His Excellency the Governor a copy of the City of Bombay Municipal (Second Amendment) Bill, 1945, prepared by His Excellency the Governor under paragraph (2) ofthe Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. The subject-matter of the Bill falls under entry 13 in the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Proclamation.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one spare copy of the Bill.

Your obedient servant,
o/c s/d P.N.M. 17-4-45
Secretary to the Government of Bombay,
Legal Department.

Through
The Secretary to the Government of Bombay,
General Department.

C.G.R. 17-7

No.201 (118).
Office of the Governor's Secretary,
Government House,

From
D.Symington, Esquire, CIE.,ICS.,
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department.

Bombay, 21st April 1945.

Subject :- A Bill to amend the City of Bombay Municipal Act, 1888.

Sir,

With reference to your letter No. 2985, dated the 17th April 1945, I am directed to return herewith the copy of the Bill to amend the City of Bombay Municipal Act, 1888 prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued ~~of~~ by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to ~~maxdxpaxx~~ declare that he assents to the Bill in the name of His Majesty.

Your obedient servant,

Sd/-

Secretary to the Governor of
Bombay.

Copy to the General Department for information.

C .G.R. 17-7

C 5

Acts:

Publication of the City of Bombay Municipal (Second Amendment) Act, 1945.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3254
Bombay Castle, 25th April 1945.

Letter to the Secretary to the Governor No. 2985, dated the 17th April 1945.

Letter from the Secretary to the Governor, No. 201 (188), dated the 21 st April 1945.

"With reference to your letter No. 2985, dated the 17th April 1945, I am directed to return herewit the copy of the Bill to amend the City of Bombay Municipal Act, 1888, prepared by His Excellency the Governor under pragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty."

RESOLUTION:- The law should be published as Bombay Act No.IX of 1945 in the Bombay Government Gazette dated the 26th April 1945.

2. The Act should be translated into Marathi, Gujarati and Hindustani (in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazetted.

3. A copy of the Act should be forwarded to the General Department.

By order of the Governor of Bombay.
Sd/- K.M. Chitnis.
for P.N. Moos,
Secretary to Governmen

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department)
The General Department.
The Oriental Translator to Government;) With
The Secretary to the Bombay Legislative Council;) a copy
The Secretary to the Bombay Legislative Assembly.) of the Act.
* With five extra copies.

C.G.R. 17-7
C 5

27/61

Bom Act IX of 1945

GOVERNOR'S BILL No. XI OF 1945.

A Bill to amend the City of Bombay Municipal Act, 1888.

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purpose hereinafter appearing ;

Bom. III of 1888.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the City of Bombay Municipal (Second Amendment) Act, 1945.

Amendment of section 361 of Bom. III of 1888.

Bom. III of 1888.

2. Section 361 of the City of Bombay Municipal Act, 1888, shall be renumbered as sub-section (*1*) of that section, and to the section as so renumbered the following sub-section shall be added, namely:—

"(*2*) The power conferred by clause (*b*) of sub-section (*1*) shall include a power to enter on any vessel within the dock area of the port of Bombay."

IX

STATEMENT.

Under section 61(*k*) of the City of Bombay Municipal Act, 1888, the Bombay Municipal Corporation is bound to make provision for the entertainment of a Fire Brigade and for the protection of life and property in the case of fire anywhere within the limits of the City of Bombay, which limits include the dock area. The Municipal Fire Brigade is, therefore, statutorily bound to assist in fighting a fire on board a ship in the dock area (though not on board a ship in the stream). In practice the Fire Brigade has for many years actually been fulfilling this responsibility. Section 361 of the Act enables the officer in charge of the Fire Brigade *inter alia* to enter any premises for the purpose of putting out a fire ; but the Commission of Inquiry appointed by the Government of India to inquire into the Bombay Explosions (paragraphs 96 and 131 of the Commission's first report) indicated a doubt as to whether the word "premises" in section 361 (*b*) of the City of Bombay Municipal Act, 1888, can be interpreted to include ships berthed in the docks. With a view to removing doubt about the authority and responsibility of the Chief or other Officer in charge of the Fire Brigade to enter ships in dock areas for the purpose of fighting fire on them, amendment of the Act is necessary. The Bill seeks to achieve this object.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS